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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/813,230
Filing Date: March 31, 2004
Appellant(s): GRAVES et al.

Ralph A. Dowell (Reg. No. 26,868)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 08/27/2010 appealing from the Office action mailed 01/20/2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

U.S. Patent Application 12/081,684

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-95 are currently pending, with claims 1-41 rejected and appealed, and with non-elected claims 42-95 withdrawn.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

2004/0068421	Drapeau	4-2002
5,867,821	Ballantyne	2-1999
2002/0144144	Weiss	3-2001
6,067,623	Blakley	11-1997

Metzger, J. and Turisco, F. "Computerized Physician Order Entry, A Look at the Vendor Marketplace and Getting Started" First Consulting Group; December 2001.

Examiner's Official Notice

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 5-6, 8-9, 20-21, 23-24, and 30-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2004/0068421 to Drapeau et al, hereinafter, Drapeau in view of US 5,867,821 to Ballantyne et al, hereinafter, Ballantyne.

As per claim 1, Drapeau teaches **an architecture for delivery of communications services within a hospital, comprising:**

-a set of healthcare data processing resources for providing healthcare communications services to users at a plurality of delivery points throughout the hospital (see: clinical application server, paragraph 20);

-a set of non-healthcare data processing resources for providing non-healthcare communications services to the users at the plurality of delivery points (see: paragraphs 20 and 21);

-a data routing entity connected to the healthcare data processing resources and to the non-healthcare data processing resources (see: linking device, paragraph 21);

-a common access infrastructure connected between the data routing entity and the plurality of delivery points, for supporting both the healthcare communications services and the non-healthcare communications services (see: patient station, paragraph 20);

Drapeau fails to teach **the data routing entity being operative to control access by the users at the plurality of delivery points to the healthcare data processing resources and to the non-healthcare data processing resources.** Ballantyne teaches controlling access by users at various access points to a master library that includes access to health care services and entertainment services (see: column 9, 54-67 and column 8, lines 7-64). It would have been obvious to one of ordinary skill in the art to include in the integrated patient station of Drapeau, the controlled access as taught by Ballantyne because the claimed invention is merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 2, Drapeau teaches the claimed architecture, **wherein the healthcare communications services and the non-healthcare communications services delivered to a common one of the delivery points occupy the common access infrastructure during mutually exclusive periods of time** (see: paragraph 20).

As per claim 5, Drapeau teaches the claimed architecture, **wherein, at a given time instant, healthcare communications services are being delivered to a first subset of the plurality of delivery points while non-healthcare communications services are being delivered to a second subset of the plurality of delivery points** (see: patient stations 201, paragraph 19 and Figure 2).

As per claim 6, Drapeau teaches the claimed architecture, **wherein the healthcare data processing resources comprise a plurality of healthcare application servers for running clinical software** (see: clinical servers 237, paragraph 20).

As per claim 8, Drapeau fails to specifically teach the claimed architecture, **wherein the healthcare data processing resources comprise a healthcare authentication entity for authenticating users at the delivery points claiming to be healthcare users**. Ballantyne teaches a security screening access process (see: column 8, lines 7-64). It would have been obvious to one of ordinary skill in the art to include in the integrated patient station of Drapeau, the controlled access as taught by Ballantyne for the same reasons set forth for claim 1.

As per claim 9, the architecture defined in claim 8, **wherein the non-healthcare data processing resources comprise a non-healthcare authentication entity for authenticating users at the delivery points claiming to be non-healthcare users**. Ballantyne teaches a security screening access process for both patients and physicians (see: column 8, lines 7-64 and column 9, lines 54-67). It would have been

obvious to one of ordinary skill in the art to include in the integrated patient station of Drapeau, the controlled access as taught by Ballantyne for the same reasons set forth for claim 1.

As per claim 20, Drapeau fails to specifically teach the claimed architecture, **wherein the non-healthcare data processing resources comprise a digital entertainment head end for controlling delivery to the delivery points of received digital entertainment services**. Ballantyne teaches digital video available for patient entertainment through the network (see: at least column 4, lines 23-51). It would have been obvious to one of ordinary skill in the art to include in the integrated patient station of Drapeau, the digital entertainment services as taught by Ballantyne for the same reasons set forth for claim 1.

As per claim 21, Drapeau fails to specifically teach the claimed architecture, **wherein the non-healthcare communications services comprise patient entertainment services**. Ballantyne teaches patient entertainment through the network (see: at least column 9, lines 54-67). It would have been obvious to one of ordinary skill in the art to include in the integrated patient station of Drapeau, the entertainment services as taught by Ballantyne for the same reasons set forth for claim 1.

As per claim 23, Drapeau teaches the claimed architecture, **wherein the non-healthcare data processing resources comprise an Internet gateway** (see: paragraph 18).

As per claim 24, Drapeau teaches the claimed architecture, **wherein the non-healthcare data processing resources comprise a patient information server for allowing access to patient information services** (see: paragraph 20).

As per claim 30, Drapeau fails to specifically teach the claimed architecture, **wherein the access infrastructure comprises a partly wireless infrastructure**. Ballantyne teaches connecting a master library to access points via landline communications, satellite, or wireless communications (see: at least column 6, lines 47-53). It would have been obvious to one of ordinary skill in the art to include in the integrated patient station of Drapeau, the wireless infrastructure as taught by Ballantyne for the same reasons set forth for claim 1.

As per claims 31-36, they are rejected for the same reasons set forth for claim 30. It is noted that cable infrastructure limitations are all old, well-known, and obvious variations of landline communications taught by Ballantyne.

As per claim 37, Drapeau teaches the claimed architecture, **further comprising: -a telephony head end connected to the access infrastructure and operative to exchange telephony signals via the access infrastructure used to support both the healthcare communications services and the non-healthcare communications services** (see: paragraph 19).

As per claim 38, Drapeau teaches the claimed architecture, **wherein the telephony signals are digital telephony signals** (see: paragraph 19). The examiner also notes that it is old and well known to use digital telephony signals.

As per claim 39, Drapeau fails to specifically teach the claimed architecture, **wherein the telephony signals occupy a first frequency range and wherein the healthcare communications services and the non- healthcare communications services occupy a second frequency range different from the first frequency range**. Ballantyne teaches using different frequency bandwidths for different purposes (see: column 6, lines 32-46). It would have been obvious to one of ordinary skill in the art to include in the integrated patient station with telephony system of Drapeau, the different frequencies for different purposes as taught by Ballantyne for the same reasons set forth for claim 1.

As per claim 40, it is rejected for the same reasons set forth for claim 39.

3. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2004/0068421 to Drapeau in view of US 5,867,821 to Ballantyne and in view of US 2002/0144144 to Weiss et al, hereinafter, Weiss.

As per claim 3, Drapeau fails to specifically teach the claimed architecture, **wherein the healthcare communications services and the non-healthcare communications services delivered to a common one of the delivery points occupy the common access infrastructure contemporaneously**. Weiss teaches a single VPN device that can be shared by two customers to make two separate VPN connections (see: at least abstract and paragraph 38). It would have been obvious to one of ordinary skill in the art to include in the integrated patient station of Drapeau, the

shared VPN device as taught by Weiss because the claimed invention is merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 4, Drapeau teaches the claimed architecture, **wherein the healthcare communications services and the non-healthcare communications services delivered to a common one of the plurality of delivery points are delivered over distinct logical connections sharing the common access infrastructure** (see: servers 317 and communications interface 319, paragraph 21).

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 2004/0068421 to Drapeau in view of US 5,867,821 to Ballantyne and in view of Jan Metzger and Fran Turisco (reference 2 on 09/03/04 IDS), hereinafter, Metzger.

As per claim 7, Drapeau fails to specifically teach the claimed architecture, **wherein the healthcare communications services comprise a computerized physician order entry service**. Metzger et al. teaches a computerized physician order entry system (see: pages 1-38, specifically page 7). It would have been obvious to one of ordinary skill in the art to include in the integrated patient station of Drapeau, the computerized physician order entry as taught by Metzger because the claimed invention is merely a combination of old elements, and in the combination, each element merely

would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

5. Claims 10-19 and 25-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2004/0068421 to Drapeau in view of US 5,867,821 to Ballantyne and in view of US 6,067,623 to Blakley, III et al, hereinafter, Blakley.

As per claim 10, Drapeau fails to specifically teach the claimed architecture, **the data routing entity further comprising an access controller operative to:**

-receive an authentication request message comprising user credentials and a user class regarding a user at a given one of the plurality of delivery points;

-determine, based on the user class, a destination authentication entity from between the healthcare authentication entity and the non-healthcare authentication entity;

-release the user credentials towards the destination authentication entity for authentication of the user.

Blakley teaches a middle tier server (access controller) (see: Figure 1, 120) that detects a request for resource access with client credentials (see: column 4, lines 55-57), determines the destination by mapping the authenticated user id to an id for the resource using an id map file (see: column 5, lines 7-16), and releases the transformed id to the resource for a secondary authentication of the user (see: column 5, lines 17-22). It would have been obvious to one of ordinary skill in the art to include in the

integrated patient station of Drapeau, the authentication routing as taught by Blakley because the claimed invention is merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 11, Drapeau fails to specifically teach the claimed architecture, **the access controller further operative to receive from the destination authentication entity an indication of successful or unsuccessful authentication of the user by the destination authentication entity**. Blakley teaches that once authenticated, the original client request will be forwarded to the resource for action (see: column 5, lines 20-21). It would have been obvious to one of ordinary skill in the art to include in the integrated patient station of Drapeau, the authentication routing as taught by Blakley for the same reasons set forth for claim 10.

As per claim 12, as noted above, Drapeau teaches the **establishment of a connection for the delivery of a healthcare communications service from the healthcare data processing resources or a non-healthcare communications service from the non-healthcare data processing resources, in dependence upon the user class corresponding to the user** (see: paragraphs 20 and 21). Drapeau fails to specifically teach **the access controller being further operative to respond to successful authentication of the user by the destination authentication entity by causing establishment of a connection**. Blakley teaches the original client request

will be forwarded to the resource for action (see: column 5, lines 20-21). It would have been obvious to one of ordinary skill in the art to include in the integrated patient station of Drapeau, the authentication routing as taught by Blakley for the same reasons set forth for claim 10.

As per claim 13, Drapeau fails to specifically teach the claimed architecture, **wherein the user class corresponding to the user belongs to a set comprising at least a healthcare user class and a non-healthcare user class**. Ballantyne teaches various levels of security access (see: column 8, lines 7-10) and categorizes a user as patient or as medical personnel (see: column 9, lines 54-57). It would have been obvious to one of ordinary skill in the art to include in the integrated patient station of Drapeau, the categorized access levels as taught by Ballantyne for the same reasons set forth for claim 1.

As per claim 14, Drapeau fails to specifically teach the claimed architecture, **the access controller being further operative to respond to successful authentication of the user by the destination authentication entity by causing establishment of a connection for the delivery of either a healthcare communications service if the user is determined to belong to the healthcare user class, or a non-healthcare communications service if the user is determined to belong to the non-healthcare user class**. This limitation is met by Blakley's id map file (see: column 5, lines 7-16) and Ballantyne's categories (see: column 9, lines 54-57) as described above. It would have been obvious to one of ordinary skill in the art to include in the integrated patient

station of Drapeau, the categorized access levels as taught by Ballantyne and the id map file as taught by Blakley for the same reasons set forth for claim 13.

As per claim 15, Drapeau fails to specifically teach the claimed architecture, **the data routing entity further comprising a switching entity operative to route the authentication request message to the access controller**. Blakley teaches within the middle tier server, the authentication mechanism 126 that passes the user id (functionally an authentication request message) to the credential transformer 124 (see: column 4, lines 55-65). It would have been obvious to one of ordinary skill in the art to include in the integrated patient station of Drapeau, the authentication routing as taught by Blakley for the same reasons set forth for claim 10.

As per claim 16, it is rejected for the same reasons set forth for claim 12.

As per claim 17, it is rejected for the same reasons set forth for claim 12.

As per claim 18, Drapeau teaches the claimed architecture, **the second authentication entity being operative to prevent establishment of a connection for the exchange of data between the delivery point and a subset of the data processing resources other than the subset of the data processing resources with which a connection has been established** (see: paragraph 12).

As per claim 19, Drapeau fails to specifically teach the claimed architecture, **wherein the second authentication entity being operative to prevent establishment of a connection comprises the second authentication entity causing the second switching entity to deny any connections there through**

which would allow establishment a connection between the end user device and said subset of the data processing resources other than the subset of the data processing resources with which a connection has been established. Ballantyne teaches failing to validate an access request resulting in denied access (see: Figure 9A). It would have been obvious to one of ordinary skill in the art to include in the integrated patient station of Drapeau, the denied access as taught by Ballantyne for the same reasons set forth for claim 1.

As per claim 25, it is rejected for the same reasons set forth for claim 14.

As per claim 26, it is rejected for the same reasons set forth for claim 14.

As per claim 27, it is rejected for the same reasons set forth for claim 14.

As per claim 28, it is rejected for the same reasons set forth for claim 13. It is noted that a physician and a nurse are both obvious types of medical personnel.

As per claim 29, it is rejected for the same reasons set forth for claim 13.

6. Claims 22 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2004/0068421 to Drapeau in view of US 5,867,821 to Ballantyne and in view of Examiner's Official Notice.

As per claim 22, Drapeau fails to specifically teach the claimed architecture, **wherein the non-healthcare communications services comprise personal video recorder services.** The Examiner Officially Notes that personal video recording was common and well known in the art at the time of the invention. It would have been

obvious to one of ordinary skill in the art to include in the integrated patient station of Drapeau, the old and well known practice of recording videos because the claimed invention is merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 41, Drapeau fails to specifically teach the claimed architecture, **wherein the telephony signals are baseband analog telephony signals**. The Examiner Officially Notes that it was old and well known to use analog baseband telephony signals at the time of the invention. It would have been obvious to one of ordinary skill in the art to include in the integrated patient station of Drapeau, the old and well known practice of using baseband analog telephony signals for the same reasons set forth for claim 22.

(10) Response to Argument

7. In the Appeal Brief filed 08/27/2010, Appellant makes the following arguments:
8. *Claims 1 and 9 are not rendered obvious by Drapeau and Ballantyne.*
 - Appellant states on page 12 of the Appeal Brief filed 08/27/2010, “the apparent assertion that Ballantyne teaches controlling access to entertainment services, is unfounded and cannot sustain an obviousness rejection.” Appellant further points out that in Ballantyne’s system, “if the user

classifies himself/herself as a "patient", Ballantyne's system displays on the PCS's screen "a sub-menu [...] identifying all the services that are available" to the patient, including the "entertainment services" referred to by the Examiner, "which are selected by a simple numeric designation" (col. 9, ln. 57 to 67; and Fig. 10A, steps 354-356). Clearly, this simple selection in no way amounts to controlling access to the "entertainment services"; on the contrary, there is no control on access to the "entertainment services" as the user is free to select any service he/she wants.

Ballantyne therefore fails to disclose or suggest controlling access by users to healthcare data processing resources and to non-healthcare data processing resources.

- The Examiner respectfully disagrees. Ballantyne teaches in column 8, lines 7-64 controlling access by users to a master library and specifically describes controlled access of patient health records by care providers. Ballantyne also teaches patients (as users) accessing the master library containing non-healthcare data at column 9, lines 57-67. Therefore, the combination of these two features of Ballantyne meet the limitations of **the data routing entity being operative to control access by the users at the plurality of delivery points to the healthcare data processing resources and to the non-healthcare data processing resources** because it would have been obvious to one of ordinary skill in the art to include in the integrated patient station of

Drapeau, the patient access to entertainment services and the controlled access as taught by Ballantyne because the claimed invention is merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

- In other words, it would have been obvious to use the controlled access for all users, including patients and care providers, and for all information found in the master library, including healthcare data and non-healthcare data because there is no unexpected or unpredictable result of that combination to one of ordinary skill in the art at the time of the invention.

9. *It would not have been obvious to modify Ballantyne's system so that it controls access to the "entertainment services" that are referred to by the Examiner.*

- Appellant states:

“a principle of operation of Ballantyne's system is to provide a patient with direct and immediate access to services by displaying to the patient on his/her PCS's screen "a sub-menu [...] identifying all the services that are available" (including the "entertainment services" referred to by the Examiner) and allowing him/her to select any of these services by a "simple numeric designation" (col. 9, ln. 57 to 67; and Fig. 10A, steps 354-356). Requiring additional actions to be performed by the patient, such as providing a password, would go against Ballantyne's aim of making the patient's interaction with its PCS as simple as possible, not to mention that it would put a burden on the patient to remember such a password or otherwise know/remember what needs to be done to access the services. Clearly, this would change the principle of operation of Ballantyne's system and render it unsatisfactory for its intended purpose.”

- The Examiner respectfully disagrees. The primary purpose of Ballantyne's system is to provide access of information to users as evidenced by Ballantyne's stated "object of the invention" in column 1.

OBJECTS OF THE INVENTION

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An object of the present invention is to provide a more automated system for distribution and administration of medical services, entertainment services, electronic health records and the like for hospitals, other health care facilities, including the patient's bedside in a hospital or at the patient's domestic premises.

- The proposed combination does not render the prior art invention unsatisfactory for its intended purpose or change the principle of operation because patients would still have an automated system for distribution of services at the patient's domestic premises.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Anita Molina /A. M./

Examiner, Art Unit 3626

/Gerald J. O'Connor/
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